DEPART

[Docket No. FR-6337-N-01]

Request for Information Community Development Block Grant Disaster Recovery (CDBG-DR) Formula

AGENCY: Office of the Assistant Secretary for Policy Development and Research (PD&R), Department of Housing and Urban Development (HUD).

ACTION: Request for information.

SUMMARY: The U.S. Department of Housing and Urban Development (HUD) seeks public input on the methodology HUD uses to calculate Community Development Block Grant-Disaster Recovery (CDBG-DR) allocation amounts. This Request for Information (RFI) is to solicit feedback to inform how the Department can improve the allocation formula in the event Congress appropriates funds for CDBG-DR in the future.

DATES: Comments are requested on or before **[INSERT DATE THIRTY DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]** Late-filed comments will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments responsive to this Request for Information (RFI). All submissions must refer to the docket number and title of the RFI. Comments may include written data, views, or arguments. Each individual or organization is encouraged to submit only one response and to limit their submissions to 10 pages in 12-point or larger font, with a page number provided on each page. Commenters are encouraged to identify the number of the specific question or questions to which they are responding. Responses should include the name of the person(s) or organization(s) filing the comment but should not include any personally identifiable information.

There are two methods for submitting public comments.

1. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at http://www.regulations.gov.

2. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Council, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500.

HUD strongly encourages commenters to submit their feedback and recommendations electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a response, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the http://www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

Public Inspection of Public Comments. All comments and communications properly submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708-3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Todd Richardson, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW, Room 8138, Washington, DC 20410-0500; telephone number (202) 402-5706 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.

SUPPLEMENTARY INFORMATION:

I. History of CDBG-DR Formula Allocations

Congress has periodically funded CDBG-DR grants through emergency appropriations acts since 1993. The CDBG-DR program is not authorized through standing statute, but instead was created through these emergency appropriations premised on the authorized Community Development Block Grant (CDBG) program. While the CDBG-DR grants are largely subject to the statutes and regulations governing the CDBG program, each appropriation act that makes CDBG-DR funds available imposes disaster-specific requirements and includes broad waiver and alternative requirement authority that enables the Secretary to adjust requirements to support resilient recovery for an individual disaster or a set of disasters.

One component of the overall process for CDBG-DR is the method for allocating the funds. With very few exceptions, HUD has allocated funds by formula because this method is the best way to satisfy statutory requirements. The language Congress uses in appropriations acts directing HUD to develop the formula and the formula itself have evolved over time. This evolution has depended on the type of disasters, the amount of funding available, policy priorities of different Administrations, and the data available immediately after a disaster to support a speedy and equitable allocation.

After each CDBG-DR formula allocation, HUD has published as an Appendix to the Federal Register Notice describing the methodology used to make the allocations. Those Notices are available at this website: https://www.hud.gov/program_offices/comm_planning/cdbg-dr/regulations

This request for information is seeking comment on the current methodology as a way to inform future allocations if and when appropriations acts make additional CDBG-DR funds available.

II. Overview of Current Methodology

As noted above, the CDBG-DR formula has evolved over time. To facilitate comment, this RFI is based on the formula used to allocate funds made available by The Disaster Relief Supplemental Appropriations Act, 2022 (Pub. L. 117– 43), which was approved September 30, 2021, and funded most impacted and distressed areas resulting from major disasters occurring in 2020 and 2021.

To enable assessment of comments based on consistent language, HUD seeks comment on the methodology and choice of data for the most recent 2021 formula allocations.

Guiding Features of the Statutory Text

Each appropriation of CDBG-DR funds stands alone. The key components of the statutory language for the most recent formula allocations were:

- Purpose: "necessary expenses for activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation, in the most impacted and distressed areas resulting from a major disaster that occurred in 2020 or 2021 pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.):"
- Eligible grantees: "*Provided*, That amounts made available under this heading in this Act shall be awarded directly to the State, unit of general local government, or Indian tribe (as such term is defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) at the discretion of the Secretary:"
- Data: "*Provided further*, That the Secretary shall allocate, using the best available data,"

The timing of the appropriation and statutory language permitted funding disasters that had occurred in 2020 and 2021, as well as disasters that had not yet occurred in 2021 – essentially a "go forward" basis. The language further provided that if there were available funds, they should be allocated for both unmet needs and mitigation at the same time:

- Total unmet needs. "[A]n amount equal to the total estimate for unmet needs for qualifying disasters under this heading in this Act:"
- Mitigation. *"Provided further*, That any final allocation for the total estimate for unmet need made available under the preceding proviso shall include an additional amount of 15 percent of such estimate for additional mitigation:"

The most recently used formula applying this statutory direction was designed with the following goals:

- Allocate the funds as quickly as possible.
- Use best available data that is consistently collected for eligible disasters.
- Allocate directly to local governments instead of states when the disaster is concentrated in one or a small number of communities regularly "entitled" under the non-disaster CDBG program.

HUD is seeking comments on several specific components of the formula. This section of the Notice describes each component and Section IV will refer back to these components in identifying the specific information requested in connection with each.

Component 1. Eligible Disasters for Funding.

The statutory language directs HUD to limit CDBG-DR allocations to those areas that were most impacted and distressed from a Presidentially declared major disaster. HUD has implemented this directive by limiting CDBG-DR formula allocations to grantees with major disasters that meet these standards:

(1) FEMA's Individual and Households Program (IHP) designation. HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.

(2) Concentrated housing damage. HUD has limited its estimate of serious unmet housing need to counties and zip codes with high levels of damage, collectively referred to as "most impacted areas." For the most recent allocation, HUD defined most impacted areas as either most impacted counties – counties exceeding $10 million in serious unmet housing needs – or most impacted Zip Codes – Zip Codes with $2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.

Component 2. Basic Formula for Unmet Needs.

"Unmet needs" means that the needs are not met by other sources of financial assistance, including Federal assistance and insurance. Further, grantees are required to prevent the duplication of benefits received from other sources when carrying out eligible activities.
At the formula level, HUD considers the following other recovery resources that are directed at long-term disaster recovery: insurance, Small Business Administration (SBA) disaster loans, and FEMA IHP and Public Assistance. All of these forms of assistance are typically available for recovery before CDBG-DR is allocated. The CDBG-DR formula is designed to roughly estimate the recovery gaps not served by these sources.

The current formula does not assume that it is possible to measure all unmet needs. Instead, the formula has evolved to be a common "measuring stick." By using similar data and approach to defining unmet needs and which areas are "most impacted and distressed," it is possible to evaluate the funding being provided to current major disasters against allocations made for prior year disasters as "apples-to-apples."

The formula depends on information gleaned from the federal programs that respond immediately after a disaster occurs – FEMA and SBA – in order to calculate unmet needs for the CDBG-DR formula allocation. Unlike the other programs that are applicant driven, CDBG-DR is a block grant that allots money for grantees to develop their own plans to reflect the recovery gaps. Fundamentally, the formula is not intended to define the specific plan beyond the singular goal of notifying grantees how much funding they will receive for recovery activities.

For disasters that meet the most impacted threshold described in Component 1 above, the unmet need allocations are based on the following factors summed together:

(1) Housing Need.

(a) Repair estimates for seriously damaged owner-occupied units without insurance (excluding households with incomes above either the national median or 120 percent of area median income, whichever is greater, if they are without hazard insurance or – if a flooding event - were in the 1 percent annual chance floodplain and did not carry flood insurance) in most impacted areas after FEMA and SBA repair grants or loans; and

(b) Repair estimates for seriously damaged rental units occupied by very low-income or poverty renters in most impacted areas.

(2) Economic Revitalization Need. Repair and content loss estimates for small businesses with serious damage denied by SBA.

(3) Public Infrastructure Need. The estimated local cost share for Public Assistance Category C to G projects.

Component 3. Methods for estimating serious unmet needs for housing.

HUD used FEMA IHP program data on housing-unit damage as of February 10, 2022, to calculate unmet needs for housing for 2020 and 2021 qualifying disasters. HUD generally calculates damage estimates for unmet needs at least 60 to 90 days after the disaster is declared a major disaster to allow sufficient time for the vast majority of FEMA and SBA housing inspections to be completed.

The core data on housing damage for both the unmet housing needs and concentrated damage calculations are based on home inspection data for FEMA's IHP program and SBA's disaster loan program. HUD calculates "unmet housing needs" as the number of housing units with unmet needs times the estimated cost to repair those units less repair funds already provided by FEMA, SBA, and insurance.

Each of the FEMA inspected owner-occupied units are categorized by HUD into one of five categories:

- Minor-Low: Less than $3,000 of FEMA inspected real property damage.
- Minor-High: $3,000 to $7,999 of FEMA inspected real property damage.
- Major-Low: $8,000 to $14,999 of FEMA inspected real property damage and/or 1 to 3.9 feet of flooding on the first floor.
- Major-High: $15,000 to $28,800 of FEMA inspected real property damage and/or 4 to 5.9 feet of flooding on the first floor.
- Severe: Greater than $28,800 of FEMA inspected real property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

When owner-occupied properties also have a personal property inspection or only have a personal property inspection, HUD reviews the personal property damage amounts such that if the personal property damage places the home into a higher need category over the real property assessment, the personal property amount is used. The personal property-based need categories for owner-occupied units are defined as follows:

- Minor-Low: Less than $2,500 of FEMA inspected personal property damage.
- Minor-High: $2,500 to $3,499 of FEMA inspected personal property damage.
- Major-Low: $3,500 to $4,999 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor.
- Major-High: $5,000 to $9,000 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.
- Severe: Greater than $9,000 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor.

To meet the statutory requirement of "most impacted" in this legislative language, homes were determined to have a high level of damage if they have damage of "major-low" or higher. That is, the unit has a FEMA inspected real property damage of $8,000 or above, personal property damage $3,500 or above, or flooding 1 foot or above on the first floor. This threshold, like most other thresholds discussed in this formula, were established for the Hurricane Sandy allocation and have been used since that time.

Furthermore, a homeowner whose flooded home was located outside the 1 percent annual chance floodplain is determined to have unmet needs if they reported damage and no flood insurance to cover that damage. For homes located inside the 1 percent annual chance floodplain, homeowners without flood insurance with flood damage with incomes below the greater of national median or 120 percent of area median income are determined to have unmet needs. For non-flood damage, homeowners without hazard insurance with incomes below the greater of the national median or 120 percent of area median income are included as having unmet needs. The unmet need categories for these types of homeowners are defined as above for real and personal property damage.

FEMA does not inspect rental units for real property damage so personal property damage is used as a proxy for rental unit damage. Each of the FEMA-inspected renter units are categorized by HUD into one of five categories:

- Minor-Low: Less than $1,000 of FEMA inspected personal property damage.
- Minor-High: $1,000 to $1,999 of FEMA inspected personal property damage or determination of "Moderate" damage by the FEMA inspector.
- Major-Low: $2,000 to $3,499 of FEMA inspected personal property damage or 1 to 3.9 feet of flooding on the first floor or determination of "Major" damage by the FEMA inspector.
- Major-High: $3,500 to $7,500 of FEMA inspected personal property damage or 4 to 5.9 feet of flooding on the first floor.

- Severe: Greater than $7,500 of FEMA inspected personal property damage or determined destroyed and/or 6 or more feet of flooding on the first floor or determination of "Destroyed" by the FEMA inspector.

To meet the statutory requirement of "most impacted" for rental properties, homes are determined to have a high level of damage if they have damage of "major-low" or higher. That is, they have a FEMA personal property damage assessment of $2,000 or greater or flooding 1 foot or above on the first floor.

Furthermore, landlords are presumed to have adequate insurance coverage unless the unit is occupied by a renter with income less than the greater of the Federal poverty level or 50 percent of the area median income. Units occupied by a tenant with income less than the greater of the poverty level or 50 percent of the area median income are used to calculate likely unmet needs for affordable rental housing. HUD includes only these low-income renter households in its calculation for unmet rental housing needs.

The average cost to fully repair a housing unit to code for a specific disaster within each of the damage categories noted above is calculated using the median real property damage repair costs determined by SBA for its disaster loan program based on a match comparing FEMA and SBA inspections by each of the FEMA damage categories described above.

In general, FEMA inspects nearly all of the housing units that have unmet needs, but those inspections are not to estimate the total cost to bring a house back to code, but rather to determine the level of assistance required to return the home to safe and sanitary living conditions. For the most severe disasters, there is a maximum amount of FEMA Individual Assistance of $35,500 and often that is the calculated damage amount for destroyed housing units. SBA, on the other hand, only inspects the homes of survivors that apply for SBA disaster loans and might be income and credit eligible for such a loan. The overlap between the SBA inspections and FEMA inspections is what HUD uses to calculate a multiplier of expected unmet needs by FEMA damage category, as described below.

If there are 20 or more non-mobile home SBA inspections that overlap with FEMA inspections for a specific damage level for an individual disaster, the median SBA inspected amount is used as HUD's base.

Using disaster 4611 (Hurricane Ida in Louisiana) as an example:

- There were 1,763 homes that had both a FEMA inspection showing the homes had "major-low" damage and an SBA inspection. We establish as a "base" the median estimated real estate loss for those matches. In the case of DR-4611, that is $50,846.
- Next, we look at the SBA data to see how many of the uninsured homeowners were approved for an SBA loan and for how much. As the chart shows, just 5 percent of the uninsured owners with major-low damage were approved for an SBA real estate disaster loan, at a median amount of $34,500. We multiply $34,500 times 5 percent to get $1,682, which we subtract from our base multiplier. In addition, 82 percent of uninsured major-low damage owners received a FEMA repair grant at a median amount of $9,630. Thus, an additional $7,915 (82 percent x $9,630) is subtracted from the multiplier.
- If the calculated amount falls within the minimum and maximum range (see below), it is the value used for the multiplier. In addition, a "higher" damage category cannot get a smaller multiplier than a lower damage category.

DR-4611	Major-Low Damage		Major-High Damage		Severe Damage	
		Calculated		Calculated		Calculated
SBA median estimated real estate loss	$50,846	$50,846	$64,121	$64,121	$82,523	$82,523
SBA median amount approved	$34,500		$48,550		$63,700	
% of unmet damage approved	5%	-$1,682	5%	-$2,423	5%	-$3,401
FEMA Median Repair Grant	$9,630		$17,203		$31,740	
% of unmet damage approved	82%	-$7,915	78%	-$13,376	74%	-$23,483
ESTIMATED CDBG-DR UNMET MULTIPLIER		$41,249		$48,322		$55,639
N=	1,763		948		382	

The exception is for mobile homes and other manufactured housing. We have calculated a separate multiplier that is the same for all manufactured homes damaged in all disasters of 2020 and

2021. Multipliers for manufactured homes are below.

Manufactured Housing	Major-Low Damage		Major-High Damage		Severe Damage	
	Estimate	Calculation	Estimate	Calculation	Estimate	Calculation
SBA median estimated real estate loss	$60,143	$60,143	$79,621	$79,621	$92,843	$92,843
SBA median amount approved	$52,550		$75,000		$78,100	
% of unmet damage approved	4%	-$2,206	4%	-$3,000	7%	-$5,111
FEMA Median Repair Grant	$11,027		$20,997		$35,319	
% of unmet damage approved	76%	-$8,366	78%	-$16,432	57%	-$20,137
ESTIMATED CDBG-DR UNMET MULTIPLIER		$49,571		$60,189		$67,594
N=	889		345		468	

For disasters and damage categories that have fewer than 20 matched SBA units, there is a "waterfall" review. No damage category can get less than the first quartile estimated amounts for all disasters of 2020 and 2021, nor get more than the third quartile amount for all disasters of 2020 and 2021. The minimums and maximums are below.

HUD Damage Categories	Minimum Multiplier	Maximum Multiplier
Major-Low	$22,971	$57,452
Major-High	$33,714	$82,582
Severe	$36,592	$134,503

For cases not meeting the 20-unit match threshold, the median for all disasters of the same type in 2020 and 2021 is used, subject to the minimum and maximum multipliers above.

	Multipliers by Disaster Type		
Disaster Type	Major-low	Major-high	Severe
Dam/Levee Break	$33,007	$47,078	$47,078
Earthquake	$27,141	$33,714	$134,503
Fire	$22,971	$82,582	$134,503
Flood	$47,074	$57,856	$64,513
Hurricane	$36,800	$45,952	$45,952
Severe Ice Storm	$33,528	$33,714	$36,592
Severe Storm(s)	$22,971	$37,299	$37,299
Tornado	$52,961	$82,582	$134,503

Component 4. Methods for estimating serious unmet economic revitalization needs.

Based on SBA disaster loans to businesses using data for 2021 disasters from as of date February 22, 2022, HUD calculated the median real estate and content loss by the following damage categories for each state:

- Minor-Low: real estate + content loss = below $12,000
- Minor-High: real estate + content loss = $12,000–$29,999
- Major-Low: real estate + content loss = $30,000–$64,999
- Major-High: real estate + content loss = $65,000–$149,999
- Severe: real estate + content loss = $150,000 and above

For properties with real estate and content loss of $30,000 or more, HUD calculates the estimated amount of unmet needs for small businesses by multiplying the median damage estimates for the categories above by the number of small businesses denied an SBA loan, including those denied a loan prior to inspection due to inadequate credit or income (or a loan application decision had not yet been made), under the assumption that damage among those denied at pre-inspection have the same distribution of damage as those denied after inspection.

Using DR-4611 (Hurricane Ida) as an example:

- Column (B) below shows that 1,834 businesses applied for an SBA disaster loan, were inspected, and had combined real estate and content loss of $30,000 or more (i.e., Major-Low damage or higher). Column (C) shows the median combined inspected loss estimate for each category.
- Of the 1,834 inspected with damage, column D shows 1,031 were denied an SBA disaster loan or did not yet have a decision based on the best available data at the time of the allocation.
- However, not all of the businesses applying for a disaster loan receive an inspection. An inspection will not be initiated if a business does not meet some basic SBA requirements, such as credit score. Among all business applicants for a disaster loan in DR-4611, the count of the denied not-inspected divided by the count of all denied loans

equals 2.14. Thus, assuming the distribution of need of those not inspected is the same as for those inspected, we estimate the total number of businesses likely needing assistance is 2.14 (column E) times the denied inspected loans (column D).

- The calculated unmet need are the total businesses HUD estimated were denied by SBA (column F) times the SBA median real estate and content damage of those inspected (column C).

HUD Damage Category (A)	Number inspected (B)	Median Real Estate and Content Damage (C)	Inspected and Denied (or no decision) (D)	Weighting to capture denied prior to inspection (E)	Total businesses denied (or no decision) (F=E*D)	Estimated Total Unmet Need (G=C*F)
Major-Low	906	$42,606	496	2.14	1,059	$45,125,639
Major-High	582	$90,697	326	2.14	696	$63,136,289
Severe	346	$236,949	209	2.14	446	$105,747,953
Total:	1,834		1,031		2,202	$214,009,881

Component 5. Methods for estimating unmet infrastructure needs.

Unmet infrastructure data depends on the estimating skills of FEMA Public Assistance staff. FEMA's Public Assistance program has several categories of assistance. For each of these categories, FEMA staff develop estimates to support budgeting of Disaster Relief Fund resources. These estimates are intended to reflect the cost to repair to pre-disaster conditions. Over time these estimates will change as FEMA and local governments agree on what is to be covered and not covered.

- Category A: Debris removal
- Category B: Emergency protective measures
- Category C: Roads and bridges
- Category D: Water control facilities
- Category E: Public buildings and contents

- Category F: Public utilities
- Category G: Parks, recreational, and other facilities

Categories A and B are the short-term emergency expenses, while Categories C to G are the long-term permanent work. Because CDBG-DR can only be used for unmet needs and many needs for short-term emergency expenses are met before CDBG-DR funds are allocated, the unmet need calculation only uses Categories C to G.

For each of these categories, the Stafford Act expects that the impacted communities contribute a local share. For most disasters this local share is 25 percent of the cost to repair back to pre-disaster conditions; however, based on a determination by the FEMA Administrator that a lower cost share is needed, the local cost share might be less. Whether this adjusted cost share is factored into the CDBG-DR formula depends on timing of FEMA's decision regarding a particular adjustment request and the timing of the allocation calculation.

HUD's estimate of infrastructure unmet need is simply the estimated cost share for Categories C to G using the best available data from FEMA at the time of the allocation.
To calculate 2021 unmet needs for infrastructure projects, HUD obtained FEMA cost estimates as of February 10, 2022, of the expected local cost share to repair the permanent public infrastructure (Categories C to G) to their pre-storm condition.

Component 6. Allocation Calculation.

For the formula allocation, HUD calculates total unmet recovery needs for eligible disasters as the aggregate of:

- Serious unmet housing needs or owners and renters in most impacted counties (including those made eligible through zip code most impacted status);
- Serious unmet economic revitalization needs; and
- Unmet infrastructure need.

Component 7. Mitigation.

Since Hurricane Sandy, CDBG-DR allocations have often included a specific component or separate allocation for mitigation or resilience activities. This calculation has also evolved over time. For disasters occurring between 2011 to 2013, mitigation/resilience was funded through a variety of means – (i) the basic formula estimating additional mitigation/resilience need was equal to 30 percent of the total estimated unmet needs; (ii) the Rebuild by Design competition, which provided additional formula allocations to support winning projects; and (iii) the National Disaster Resilience competition, which awarded funding through a Notice of Funding Opportunity.

After Hurricanes Harvey, Irma, and Maria in 2017, Congress indicated that HUD should fund mitigation for all disasters of 2015 to 2017 with the funds remaining after allocating for 100 percent of unmet needs, proportional to the unmet needs. This same approach was used for 2018 disasters, per Congressional direction; 2019 disasters received no mitigation specific funding.

New for the 2020 and 2021 allocations was to make mitigation allocations simultaneously to unmet needs allocations at 15 percent of the unmet need calculation, per Congressional direction.

Component 8. When appropriations are less than calculated unmet needs.

CDBG-DR funds are usually tied to either a set of disasters or a time period. The amount appropriated can be more or less than what HUD calculates for unmet needs for areas above the threshold (as defined in Component 1). When funds are less than the calculated unmet needs, they are allocated in proportion to the unmet needs across the eligible disasters, which means the amount of unmet needs HUD funds through CDBG-DR has varied throughout the last 29 years.

Congress appropriated funds for the 2020 and 2021 disasters in September 2021 with specific instructions that the allocations for 2020 disasters be made as total unmet needs along with mitigation, within 30 days of appropriation. This direction resulted in a scenario where 100 percent of the 2020 disaster needs plus mitigation were met, but not enough resources were available to do the same for 2021 disasters. HUD managed this by allocating the remaining funds proportional to the combined unmet and mitigation needs for 2021 disasters, which resulted in each 2021 grantee receiving 60.4 percent of their total calculated unmet needs and mitigation.

Component 9. Local Allocations.

Congress provides the Secretary with authority to decide whether allocations should be made directly to states, local governments, or Indian tribes. In 2020, the grants were made only to the states, while for 2021 grants were made to a combination of states and local governments. The approach for making the 2021 local allocations took place after calculating the disaster level allocation amounts at the state level. HUD calculated the share of serious unmet housing needs for entitlement areas (i.e., those metropolitan cities and urban counties that receive regular CDBG grants) and proportionally allocated among the entitlement areas and the impacted areas in the state outside of entitlement areas (state balance) proportional to each area's share of serious unmet housing need in its most impacted areas. If entitlement areas represent 70 percent or more of the serious unmet housing need in a state from a particular disaster and the calculated award amount does not exceed their regular CDBG grant by 20 times or more, then local allocations were made to qualifying entitlement areas instead of the state.

Component 10. Minimum Amount to be Spent in Most Impacted and Distressed Areas.

Congress has called for CDBG-DR funds to be targeted to the most impacted and distressed areas. As noted above, the housing funds are allocated based strictly on only those counties ($10 million) or zip codes ($2 million) with enough homes with serious damage to meet the minimum dollar thresholds. The business estimates and infrastructure estimates are for the full disaster area of the state or entitlement area.

With each formula allocation, HUD specifies the areas that it has determined to be most impacted and distressed (e.g., counties, zip codes) for each grantee and requires that a minimum of 80 percent of the amount allocated benefit the recovery in counties containing these areas.

Component 11. Data Provided to CDBG-DR grantees for developing Action Plans.

Under a current Computer Matching Agreement between HUD and FEMA, HUD may enter a data sharing agreement with grantees to provide to grantees the FEMA Individual Assistance data it used to develop the formula allocations. Note that HUD provides raw FEMA data to CDBG-DR grantees and not the final data resulting from HUD's allocation calculations.

HUD does not have a Computer Matching Agreement with SBA, so grantees must work directly with SBA to obtain its data. HUD does not currently have the authority to make this data publicly available.

III. Purpose of this Request for Information.

Congress has been considering various legislation that would formally authorize CDBG-DR as a program. In the event Congress authorizes the program, this Request for Information would inform that rule development.

If the program is not formally authorized, HUD anticipates that Congress will likely continue to make supplemental appropriations for disasters and that they would expect HUD to continue to allocate funds by formula. This Request for Information could inform improvements to the allocation formula in the event Congress appropriates funds for CDBG-DR in the future.

IV. Specific Information Requested.

General questions.

Question 1. Given the policy objective of quickly allocating funds so that state and local officials can speedily develop programs to address their most serious unmet needs for disaster recovery, are there other ways HUD might allocate CDBG-DR funds beyond the methodology described above?

Discussion. HUD has long relied on the data from FEMA and SBA to make formula calculations. With advances in technology and other public and private data sources, there may be other approaches HUD could consider.

Question 2. If Congress appropriates funds in advance of disasters occurring in a specified time period, should disasters be funded as soon as practicable after they occur, or should HUD hold back funding until all disasters in a year are known so each receives an equal share of the remaining funding relative to their needs?

Discussion. For the 2020 and 2021 disasters, at the direction of Congress, HUD fully funded the disasters of 2020 and then partially funded all of the eligible 2021 disasters due to limited funding.

The remaining questions refer back to the current formula components discussed in Section II of this request for information.

Component 1 specific questions. Eligible Disasters for Assistance.

Question 3. How should HUD determine the disasters that are eligible for CDBG-DR assistance and the areas that are most impacted and distressed from a Presidentially declared major disaster? Is HUD's approach effective or including rural and Tribal areas that are most impacted and distressed? Given the complexity of program implementation, should a grantee not only meet most impacted and distressed standard but also have an aggregate amount of unmet need above a minimum grant threshold?

Discussion. We are seeking comments on if the current methodology is overly targeted or not targeted enough in terms of disasters that should receive these funds. In general, the motivating disasters that Congress appropriates funding for tend to be very large disasters that communities are otherwise financially unable to address. The current methodology has grown more inclusive over time such that many disasters that might be considered smaller disasters are now receiving funding in addition to larger disasters. CDBG-DR funds often require a great deal of local investment in new management and financial capacity for the funds to be used effectively. HUD experience has been that communities with relatively small disasters face significant challenges in establishing new recovery programs.

In addition, HUD's current definition for concentrated housing damage is a measure of damage to homes occupied by very low-income renters and uninsured homeowners. For some disasters, this approach is consistent with lower income areas, while for other disasters like flooding and earthquake events, this approach targets large numbers of likely higher income households without insurance for those specific disasters. As such, the CDBG-DR requirement for serving 70 percent low-and-moderate income (LMI) households can become difficult for grantees if they have largely been funded based on serious damage of higher income homeowners that are eligible for, but did not receive, SBA disaster loans.

Items of specific interest:

- Should there be additional thresholds that capture concentration of damage? Examples of such thresholds might include a minimum percentage of impacted homeowners or renters in a Census Tract, a minimum percentage of LMI population impacted by the event, or a minimum percentage of LMI households residing in the impacted area prior to the event.
- Should the damage threshold for "most impacted" serious housing damage be raised so that it excludes "major-low"?
- Are serious unmet housing needs for counties at $10 million or zip codes at $2 million the appropriate thresholds for "most impacted and distressed"? Do disaster thresholds based on monetary damages disadvantage certain households and might there be a different way to determine most impacted and distressed areas? Particularly as it relates to rural and Tribal areas.
- Should the income of the area(s) impacted be factored into determining eligibility? For example, HUD could include only data on damage in low-and-moderate income areas when calculating most impacted eligibility.

Component 2 specific questions. Basic Formula for Unmet Needs.

Question 4. Are there are other unmet needs that HUD should be factoring into the formula calculation beyond housing, economic revitalization, and infrastructure?

Discussion. Questions under later components speak to the specific data and approach for calculating housing, economic revitalization, and infrastructure unmet needs, which relate to the CDBG-DR purposes of "restoration of infrastructure and housing" and "economic revitalization." This question is more basic and could reflect the other purposes of CDBG-DR grants, including the more general purposes of "disaster relief" and "long-term recovery". We note that CDBG-DR appropriations acts typically dictate how HUD will calculate the additional allocation amount for the "mitigation" purpose, but respondents may also include comments related to calculating mitigation allocations. HUD notes that any portion of the CDBG-DR grant can be used for mitigation/resilience purposes, beyond the amount calculated as the mitigation plus up. In answering this question, respondents should indicate what data HUD might consider. Note that the data generally needs to be consistently available for all areas and disasters.

Question 5. Should HUD establish a minimum number of days to have passed after a Presidential Disaster declaration, or some other metric, before calculating unmet needs?

Discussion. The current formula uses administrative data from FEMA and SBA that takes time for both agencies to collect as they implement their programs. Key elements of their data include home inspections and eligibility determinations. As a rule of thumb, HUD has generally held off allocations for 60 to 90 days after a disaster before calculating unmet needs. Is there some other metric HUD should use before making allocations?

Component 3 specific questions. Housing Unmet Needs.

Question 6. Should HUD continue to exclude certain homeowners with incomes above 120 percent of area median income from consideration of unmet needs?

Discussion. The current formula is built around the idea that homeowners with higher income should carry hazard insurance in all cases and flood insurance if in a floodplain.

Question 7. For homeowner occupied units, in addition to uninsured households, should HUD consider the unmet need of insured applicants denied SBA loans? Is there another data source or characteristic HUD should consider to measure the unmet needs of insured applicants?

Discussion. Increasingly we are informed that insurance is inadequate for recovery and mitigation and limiting the allocation to just the uninsured homeowners is leaving a large recovery gap in assistance for lower income households. FEMA Individual Assistance data are limited in some disasters because inspections are not completed for insured properties. A potential additional source of data are households that are denied SBA loans, similar to the approach used for economic revitalization unmet needs in component 4.

Question 8. For homeowner occupied units, are the FEMA Verified Loss breaks the correct breaks for assessing disaster severity? Should these be modified to reflect FEMA program updates?

Question 9. Is there an alternative to personal property damage that HUD might consider for measuring damage to rental housing? For renter occupied units, are the FEMA personal property breaks currently used the right breaks for assessing disaster severity? Should these be modified to reflect FEMA program changes?

Discussion. HUD uses personal property damage as a proxy for likely housing unit damage. FEMA benefit calculations have changed over time and its methodology for both determining amount of FEMA Verified Loss for homeowners and personal property loss has varied from disaster to disaster. The thresholds HUD uses were developed over a decade ago.

Question 10. For renter occupied units, is it a reasonable assumption that damage to housing occupied by renters less than the greater of poverty or 50 percent of AMI reflects a likely loss of affordable housing?

Discussion. The data HUD gets for the formula allocation has no information on insurance coverage for landlords, so HUD has established a series of proxies for likely loss of affordable housing. CDBG-DR is generally intended to target households below 70 percent of AMI. The first proxy is measuring rental damage (discussed above) using personal property damage as a proxy for unit damage; and the second proxy is the unit being occupied by a renter less than the greater of poverty or 50 percent of AMI with the assumption that if housing either will not be replaced, or if it is replaced it will no longer be affordable after repair, and thus there is a need for replacement affordable housing.

Question 11. Is there a simpler approach for calculating the multipliers used for unmet needs?

Discussion. HUD's matching to SBA data is generally only effective for very large disasters; most other disasters are subject to the disaster specific multipliers. HUD could indicate on its web site each year a multiplier schedule by disaster type. A downside to this approach is that it does not capture local variation in cost that the current approach does capture for large disasters. The upside is more transparency and a simpler formula.

Question 12. Are there other options – beyond using the homeowner multiplier – for how the multiplier for rental units could be calculated when determining unmet housing needs?

Discussion. HUD currently uses the same multiplier for rental units as owner-occupied units in the same damage category. The goal for allocating the funds for owners and renters, however, are very different. The goal for homeowners is to help them repair their home so they can return to that home or cover some of the cost for buyouts if needed. For renters, there is a presumption that damaged very low-income renter housing either will not be repaired, or, if it is, it will no longer be as affordable as pre-disaster. As such, the formula reflects an assumption that the most likely use of funds to support recovery of rental housing markets is to support creation of housing affordable for renters with income less than 50 percent of AMI.

Component 4 Specific Questions. Methods for estimating serious unmet economic revitalization needs.

Question 13. Are there other factors and/or data sources HUD might consider beyond SBA business loan denials when determining unmet economic revitalization needs?

Discussion. Examples for consideration include taking into account a community's pre-disaster economic distress or the nature of the disaster (e.g., existing economic distress can lead to significant displacement during a disaster that may delay economic recovery) or data from other federal agencies such as the Economic Development Administration at the Department of Commerce.

Question 14. Should HUD establish a higher or lower standard for inclusion of businesses with serious unmet need?

Discussion. HUD has not changed the damage thresholds in over a decade.

Question 15. How can HUD better target the calculation of unmet economic revitalization needs for lower income households and other vulnerable populations in the most impacted and distressed areas?

Discussion. The current method is targeting funds to businesses not meeting income or credit requirements of SBA. It does not take into account the location of the business, such as if it is located in a low-mod area.

Component 5 Specific Questions. Methods for estimating unmet infrastructure needs.

Question 16. Are there other data or factors HUD might consider for measuring unmet infrastructure needs?

Should HUD establish a minimum amount of time (e.g. not less than 60 days) after a disaster to calculate CDBG-DR allocations so they are based on consistent, accurate FEMA PA damage estimates?

Discussion. HUD may be unaware of other sources of data on public infrastructure needs besides FEMA Public Assistance. Further, the current approach tends to provide more for places that had more infrastructure pre-disaster, which may disadvantage communities with inadequate infrastructure pre-disaster due to the low incomes or historical disinvestment in the community pre-disaster.

Question 17. How can HUD better target the calculation of unmet infrastructure needs for lower income households and other vulnerable populations in the most impacted and distressed areas? Should HUD pro-rate the estimate of infrastructure needs based on the fraction of damaged homes with unmet needs located in LMI areas?

Discussion. The current methodology for determining infrastructure need does not factor in the income or other demographics of the impacted area. CDBG-DR must be predominantly used for activities that benefit low- and moderate-income persons. For infrastructure investments to satisfy the low-mod area benefit national objective criteria, usually the investment needs to be in a primarily residential area where at least 51 percent of the residents are low- and moderate-income persons. Some grantees in the past have had difficulty meeting the low-mod benefit requirements for their infrastructure funds.

Component 6 Specific Questions. Allocation Calculation.

Question 18. How can CDBG-DR allocation methodology be modified to allocate resources equitably and adequately address disaster-related needs, including the needs of the most impacted, vulnerable populations, and underserved communities?

Component 7 Specific Questions. Mitigation.

Question 19. How should HUD factor mitigation into the CDBG-DR formula? Should the mitigation multiplier be different by type of disaster?

Discussion. Congress has tried several different methods; feedback on grantee and subgrantee experiences with HUD's different ways of implementing those methods would be beneficial. The cost to mitigate against future risk needed in a fire zone is very different than mitigation needed in flood zone. Using a single multiplier such as 15 percent does not take this into consideration.

Question 20. Should there be a separate calculation of mitigation needs that is independent of the unmet need calculation? If so, what should that calculation be?

Discussion. Depending on the disaster, mitigation and potential resilience costs may be significantly more or less than a simple proportional allocation relative to unmet needs.

Component 8. Specific Questions. Amount of Funding.

Question 21. If resources are limited, should a certain type or types of unmet need be prioritized over others in determining an allocation? For example, housing only.

Discussion. The current policy of insufficient funding is to allocate proportional to the unmet needs of eligible grantees or to fully fund disasters as they occur until funding runs out leaving later disasters with no funding. This question seeks comments on how to allocate funding when less is appropriated than calculated unmet needs.

Component 9 Specific Questions. Allocations to Local Governments and Indian tribes.

Question 22. What criteria should HUD use when determining if an allocation should be made directly to local governments and Indian tribes (as that term is defined under section 102(a) of the Housing and Community Development Act of 1974) versus the full allocation to a state government? Should HUD take into account grantee capacity when deciding on either providing a direct grant and/or amount of the grant?

Discussion. The research on this topic is inconclusive[1]. Local and tribal government leaders often petition HUD for direct allocations while state leaders argue there is greater efficiency, management capacity, and more program consistency when it is a single allocation to the state.

Question 23. Are there revisions to HUD's allocation methodology that should be considered to capture tribal recovery needs more effectively? Please see the RFI requesting information on the CDBG-DR program published elsewhere in today's *Federal Register*.

Component 10 Specific Questions. Minimum Amount to be Spent in Most Impacted Areas.

Question 24. Currently at least, 80 percent of CDBG-DR funds must be spent to benefit the most impacted and distressed area designated by HUD, and up to 20 percent may be spent in area designed by the grantee as most impacted and distressed areas; is this the right amount?

Discussion. The 80 percent standard was based on analysis of how funds were allocated for allocations to 2011 disasters prior to Hurricane Sandy funding. The standard has not changed since that time. Note that 100 percent of CDBG-DR grants must be expended in a most impacted and distressed area, with a minimum of 80 percent in HUD defined most impacted areas and up to 20 percent in areas identified by grantees. Please see the RFI requesting information on the CDBG-DR program published elsewhere in today's *Federal Register* that solicits public comment on this topic.

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[1] Martin, Carlos, *et al*. "Housing Recovery and CDBG-DR: A Review of the Timing and Factors Associated with Housing Activities in HUD's Community Development Block Grant for Disaster Recovery Program." HUD User. April 2019. https://www.huduser.gov/portal/publications/HousingRecovery-CDBG-DR.html.

Component 11 Specific Questions. Data Provided to CDBG-DR grantees for developing Action Plans.

Question 25. In addition to the raw data provided by FEMA to HUD for the formula calculation, should HUD provide to CDBG-DR grantees and the public a set of pre-scripted tables and maps to assist with development of Action Plans? What other information would be helpful for developing Action Plans?

Discussion. A significant amount of analysis goes into developing the formula allocations. HUD could prepare some basic tables and maps to inform the public and grantees on who was impacted, where they were impacted, and what the nature of the damage is.

V. Response Guidance

For comments submitted by mail responses should not exceed 50 pages. Please provide the following information at the start of your response to this RFI: Company/institution name (if applicable); contact information, including address, phone number, and email address. Do not submit Confidential Business Information (CBI) in your response to this RFI. Responses identified as containing CBI will not be reviewed and will be discarded.

Please identify each answer by responding to a specific question or topic if applicable. You may answer as many or as few questions as you wish. To help you prepare your comments, please see the *How Do I Prepare Effective Comments* segment of the Commenting on HUD Rules web page, *https://www.hud.gov/program_offices/general_counsel/Commenting-On-HUD-Rules#1*. While that web page is written for commenting on regulatory proposals, these tips are generally applicable to this RFI.

Solomon J. Greene,
Principal Deputy Assistant Secretary for Policy Development and Research.

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